

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**JOHN KIMBROUGH,**

Plaintiff,

v.

**DALLAS, TEXAS,**

Defendant.

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Civil Action No. **3:18-CV-29-L-BN**

**ORDER**

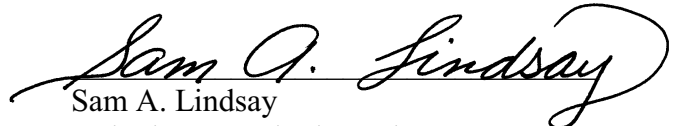
This case was referred to United States Magistrate Judge David L. Horan, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on March 21, 2018, recommending that this action brought by pro se Plaintiff John Kimbrough (“Plaintiff”) be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with a court order, as he failed to file verified responses to the magistrate judge’s questions as ordered on January 10, 2018. No objections to the Report were filed.

After reviewing the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **dismisses without prejudice** this action under Rule 41(b) for failure to prosecute and comply with a court order.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.21 (5th Cir. 1997). The court **concludes** that any appeal of this action would present no legal point of arguable

merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 6th day of July, 2018.

  
Sam A. Lindsay  
United States District Judge